IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2545 OF 2006

Kishore Sahebrao Jadhav and another. ..Applicants.
Vs.
The State of Maharashtra. ..Respondent.

Mr. Naveen Chomal, Advocate for the Applicants.

Mr. Mandar Goswami holding for Mr. K.S.Patil for the complainant.

Mr.Y.S.Shinde, APP. for the State.

CORAM : R.S. MOHITE,J.
DATED : 01/8/2006.

P.C.

1. This is an application for grant of bail. The applicants are shown as an accused in C.R. No. 89/2005 registered by Jaikheda Police Station for offences under Section-279, 337, 338, 304A of the I.P.C. and 184 of the Motor Vehicles Act. The deceased in this case is one Vijay Thoke. The prosecution case is that on 16.9.2005 at about 3.30p.m. he was assaulted by the present applicant No.2 with an iron tommy on his head while he was returning by leaving his wife on a motorcycle. On 20.9.2005, the police have recorded the statements of seven eye witnesses who involved the applicants. The Statements of witnesses indicate that at about 3.00p.m. on that day Kishore and his father had taken motorcycle of a witness by name Suklal Gavali from the market place of the area. The motorcycle was returned after half an hours at about 3.30p.m. The

present applicant No.1 has lodged complaint to the police station indicating that Vijay had suffered an accident and also suffered head injuries. Seven eye witnesses state that they were threatened by applicant No.2 to state that it was a motor accident, otherwise they would have to proceed by the same road. The blood stains were found on the shirt of the applicant No.1 and there is recovery of tommy at the behest of applicant No.2 which is found to have blood group "O" which is the same blood group of the deceased. It was sought to be strongly contended that the eye witnesses talked about the applicant No. 2 inflicting two injuries on the head of the deceased. It was argued that the post mortem notes indicated as many as nine injuries. Six of those injuries are C.L.Ws./ abrasions which in my opinion can be caused while falling from a motorcycle. There is also fracture of ribs. But at this stage, I cannot rule out a possibility that such fracture can be caused by falling from the motorcycle. The eye witnesses might not have seen all the blows inflicted on the deceased specially when they were at some distance. At this stage, it is not possible to say that there is no material against the applicants. Not a fit case for grant of bail. Hence, application is rejected. It is however, made clear that the observations made in this order will not come in the way of the applicants at the time of trial.

(R. S. MOHITE, J.)